IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 12TH FEBRUARY 2007 / 23RD MAGHA 1928

WP(C).No. 30012 of 2005(W)

PETITIONER:

NAFEESATHUL MISIRIYA,
WIFE OF TAHA, TAHA MANZIL, PULLIKKANAKKU P.O.,
KAYAMKULAM VILLAGE, ALAPPUZHA DISTRICT.

BY ADV. SRI.B.RENJITHKUMAR

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY**
   ITS DISTRICT COLLECTOR, ALAPPUZHA.

2. **THE SPECIAL TAHSILDAR (R.R.)**
   KARTHIKAPPALLY, ALAPPUZHA DISTRICT.

3. **THE VILLAGE OFFICER, KAYAMKULAM.**

4. **THE PROJECT OFFICER, DISTRICT KHADI**
   VILLAGE OFFICE, ALAPPUZHA.

5. **THE KERALA KHADI & VILLAGE**
   INDUSTRIES BOARD, REPRESENTED BY ITS
   SECRETARY, THIRUVANANTHAPURAM.

6. **YOUSUFF, S/O. IBRAHIMKUTTY,**
   KUTTIYIL KIZHAKKATHIL, KRISHNAPURAM P.O.,
   ALAPPUZHA DISTRICT.

...2/-

*ADDL.R7 TO R11 ARE IMPLEADED:

R7. MAYOOSHI GRAMA VIKASANA INDUSTRIAL DEVELOPMENT SOCIETY, REG.NO.A-584/88, KRISHNAPURAM, REPRESENTED BY ITS SECRETARY, A.SHEEBA, KHADARIA MANZIL, KURATTISSERY, MANNAR, ALAPPUZHA.

R8. M.ADABIA, VARIAMANA MADOMS, KAPPIL EAST, KRISHNAPURAM P.O., ALAPPUZHA DISTRICT.

R9. E.MARIYAMMAKUNJU, KUTTIYHIL KIZHAKKATHIL VEEDU, KRISHNAPURAM P.O., ALAPPUZHA DISTRICT.

R10. E.MOHAMMED KUNJU, MADATHIL VEEDU, KOCHUMURI, PUTHUPPALLY P.O., ALAPPUZHA DISTRICT.

R11. P.SIRAJUDEEN, ASUMA MANZIL, KRISHNAPURAM P.O., ALAPPUIZHA DISTRICT.

(ADDL.R7 TO R11 ARE IMPLEADED AS PER ORDER DTD.30/01/2006 IN I.A.NO.763/06)

BY ADV. SRI.K.P.HARISH,SC,KERALA KHADI BOARD
BY GOVT.PLEADER SMT. PUSHPALATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/02/2007 ALONG WITH WPC NO. 28063 OF 2005, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.30012/2005 W

APPENDIX

PETITIONER'S EXHIBIT:

EXT.P1: **COPY OF DEMAND NOTICE DTD. 16/08/2005 TO THE PETITIONER.**

/TRUE COPY/

Kss

K.BALAKRISHNAN NAIR,J.

WP(C)NOS.28063 & 30012 OF 2005

Judgment

The petitioners in these Writ Petitions resist the revenue recovery proceedings initiated against them at the instance of the Kerala Khadi and Village Industries Board. According to them, the loan availed of by the Society, in which they were Board Members, is barred by limitation and therefore, the revenue recovery proceedings initiated against them are liable to be interfered with and quashed. It is also contended that they have no personal liability in the matter.

2. A counter affidavit has been filed on behalf of the Kerala Khadi and Village Industries Board in Writ Petition(C) No.28063/05, stating that the loan was disbursed on the mortgage of the property of the Society, having an extent of 30 cents. Therefore, the learned counsel for the Board submits that the loan is not barred by limitation. It is also submitted that as per the loan agreement, the Board members of the Society are also liable. The learned counsel for the petitioners, on the other hand, would vehemently contend that even assuming the loan is a mortgage loan, still, it is barred by limitation. I think, the question of bar of limitation is a matter, which can be appropriately adjudicated by a Civil Court. But, the learned counsel for the petitioner pointed out that a suit against revenue recovery proceedings can be instituted only on limited grounds. But, if the debt due to the Kerala Khadi and Village Industries Board is barred by limitation, the petitioners can seek injunction against the said Board from enforcing the time barred debt. If the said Board is prevented from proceeding with the recovery, it

will be bound to recall the requisition issued to the revenue recovery officials and therefore, the recovery proceedings being dependent proceedings, will fall to ground. The petitioners submit, their claim regarding bar of limitation, is covered by several decisions of this Court and the Apex Court. No trial court can ignore the decisions concerning the principles of bar of limitation in revenue recovery proceedings. In the result, the Writ Petitions are dismissed without prejudice to the contentions of the petitioners and their right to move the competent Civil Court for appropriate reliefs. The learned counsel for the petitioners also raised a contention that even assuming the Society is liable, the petitioners cannot be made personally liable. This contention is also kept open, which, they can urge before the Civil Court.

12.02.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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